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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,020	03/31/2004	Jiann Bang Liou	14334 B	5519
36672	7590	02/28/2005	EXAMINER	
CHARLES E. BAXLEY, ESQ. 90 JOHN STREET THIRD FLOOR NEW YORK, NY 10038			NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/814,020	LIOU, JIANN BANG	
	Examiner	Art Unit	
	Tam Nguyen	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-31-04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Pape (5,779,600).

1. As to claims 1, 2 and 10, Pape discloses an exerciser comprising a base (12), a magnetic rotating wheel (48), a rotary member (46) as substantially claimed, means for driving the wheel (36,42,46, 50,52) and a fan device (56) attached onto said rotating wheel to rotate in concert with the wheel when driven by the driving means to inherently generate cooling air (see Figs. 1, 4B & 6 and Col. 2, line 52 - Col. 3, line 5).

Claims 1, 2 and 10 are also rejected under 35 U.S.C. 102(b) as being anticipated by Pyles (5,051,638).

2. As to claims 1, 2 and 10, Pyles discloses an exerciser comprising a base, a magnetic rotating wheel (13), a rotary member (hidden sprocket in Fig. 15) as substantially claimed, means for driving the wheel (pedals) and a fan device (1)

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attached onto said rotating wheel to rotate in concert with the wheel when driven by the driving means to generate cooling air (see ABSTRACT, Figs. 1-3 & 15-18 and Col. 4, lines 6-15).

Claims 1 and 3-7 are also rejected under 35 U.S.C. 102(b) as being anticipated by Huang (6,736,761).

3. As to claims 1 and 3-7, Huang discloses an exerciser comprising a base (41), rotating wheel (31), means for driving the wheel (when 22 is rotated) and a fan device (33) attached onto said rotating wheel to rotate in concert with the wheel when driven by the driving means to generate cooling air (see Figs. 3 & 5-7 and Col. 4, lines 48-53). Huang further discloses that the fan device (33) includes a plate secured to the rotating wheel (31) via screws (333) and a plurality of fan blades extended radially and outwardly from the plate wherein each blade includes a side segment laterally extended out of said plate and an inner portion having an inclined surface that are spaced away from an opening (331) of the plate (see Fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being obvious over Pape (5,779,600) in view of Stevens (6,302,827).

4. As to claims 1, 3, 8 and 9, Pape discloses an exerciser comprising a base (12), rotating wheel (48), means for driving the wheel (52) and a fan device (56) attached onto said rotating wheel to rotate in concert with the wheel when driven by the driving means to inherently generate cooling air (see Figs. 1 and 4B). Pape does not disclose that the fan device includes a plate secured to the rotating wheel wherein the plate includes a peripheral flange, having an inner diameter equal to an outer diameter of the rotating wheel, extending laterally from one side to engage the rotating wheel to firmly attach the fan device to the wheel. Steven discloses a resistance- adjusting device having a fan device (11) that includes a plate secured to a rotating wheel (5) wherein the plate includes a peripheral flange, having an inner diameter equal to an outer diameter of the rotating wheel, extending laterally from one side to engage the rotating wheel to firmly attach the fan device to the wheel (see Figs. 1 and 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to substitute Papes' driving wheel and fan device with Steven's driving wheel and fan device since both combinations are functionally equivalent in providing a similar exercise resistance means while the latter combination arguably works more efficiently since magnetic forces are applied to the planar surface of the plate as opposed to just a peripheral edge as shown by Page (see Fig. 4).

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chen '792, Woods et al. '270, Friesl '613, Kolda '477, Wang et al. '694, Chen '032 and Tobias et al. '601 are representative of the prior art that discloses exercise devices having fan components.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F, 9-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 1, 2005



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